

REMARKS

This Response to Office Action is submitted in response to the Office Action dated February 14, 2002. Claims 1, 23, 30, 33, 37, 47, 68, 74, 77, 88, 89 and 90 have been amended. No new matter has been added. No fee is required for this Response. Please charge Deposit Account No. 02-1818 for any insufficiency or credit for any overpayment. A complete set of formal drawings are also submitted herewith to overcome the objection to the drawings. Attached hereto is a marked up version of the changes made to the specification and claims by the current response which is captioned "**VERSION WITH MARKINGS TO SHOW CHANGES MADE.**"

The Examiner rejected pending Claims 1 to 17, 19 to 62, 64 to 82 and 84 to 94 under 35 U.S.C. § 102(a) as being anticipated by U.S. Patent No. 5,832,458 (Jones). The Examiner rejected pending Claims 18, 63 and 83 under 35 U.S.C. § 103(a) as being unpatentable over Jones.

As discussed during the interview, Jones is directed to a system for electronically auditing sales transactions involving coupons redeemed through retailer point of sale systems. The system of Jones includes an in-store electronic audit system for collecting, processing and storing retail sales transaction data including coupon data at each retailer store. In Jones, the in-store electronic audit system directly captures specified information regarding each in-store transaction including any transaction involving a coupon by monitoring communications between the individual scanners or cash registers in a store and the in-store processor. The Jones system does not receive product or promoted product POS data collected by the retailer. The information captured by the Jones system includes the coupon, the amount of credit, the time of the transaction and the manufacturer of the promoted product. (See column

9, lines 32-35). The electronic audit system in Jones periodically transmits the retail sales transaction data including coupon data it collects to an audit system central processor. The audit system central processor includes one or more central computers for collecting retail sales transaction data including coupon data from each in-store electronic audit system.

The audit system central processor of Jones is adapted to prepare and provide daily reports to manufacturers and retailers regarding coupon activity. Jones states that:

[a] couple of examples of the many types of reports 70 available include providing daily cashier shift report on coupon activity to store 10 manager, and providing a daily audit (by manufacturer) of coupons redeemed to store headquarters and manufacturers' agents to support the settlement process. Other examples of some of the reports 70 available from the present invention include, and not by way of limitation:

Summary of coupons redeemed (dollars total and number) by day, store and manufacturer. If desired, this summary may be compared to a 52 week history file, with statistically high exceptions flagged.

Summary of manual overrides by store, day, and manufacturer. If desired, this summary may be compared to 52 week history, similar stores in account or a particular market, with statistical exceptions flagged.

Periodical (preferably weekly) summary by store, account and manufacturer of the dollar and total dollar level of valid coupon activity for settlement purposes.

Comparison of flagged stores with cashier habits, extremely high coupon activity, extremely fast total transaction times (sometimes indicative of fraudulent misredemptions), non-normal variations in UPC distributions, and high frequency of manual overrides.
[Emphasis Added]

(See column 10, lines 33-57). Accordingly, as indicated by the underlined passage, Jones expressly provides that reports of coupons redeemed are provided by the electronic audit system to the retailer and manufacturers' agents to support the settlement process, not to effectuate the settlement process. Jones further provides that:

Audit system central processor 60 also prints, as required or deemed appropriate, a potential discrepancy report 70 for both headquarters and manufacturers' agents including, but not limited to:

unusual coupon activity (by manufacturer, by brand or by item) by store, cashier, time of day, or day of week

unusual number of manual overrides by manufacturer, by brand or by item for each store and cashier

specific invalid coupon rejections for particular brand, item or expired code

closest purchased item to coupon that was rejected (e.g., brand size variations)

unusual coupon activity as a percentage of total items purchased or percentage of manufacturer purchases by account, store and cashier for a specified period.

(See column 10, lines 64-67 and column 11, lines 1-11). The focus of Jones is coupon data and verification of proper coupon redemption (i.e., an auditing system, not an independent settlement system). Since Jones primarily relates to coupons, Jones does not expressly or implicitly state or inherently provide that the Jones electronic audit system calculates the amount of money owed by the manufacturer to the retailer in accordance with contract terms of a trade promotion between a manufacturer and a retailer where such terms are captured and stored in an independent operation system database as in the present invention.

In columns 11 and 12, Jones generally discusses that the Jones electronic audit system for coupons could be used for trade promotions. Jones does not provide details on how this would be actually be accomplished. First, Jones generally describes trade promotions as follows:

Another use for the present invention lies in the area of temporary price reductions between manufacturers and retailers. Commonly referred to as "trade promotions", this class of promotions involves a manufacturer offering a significant temporary price reduction to the retailer in return for improved merchandising support by the retailers in the form of extra advertisement, in-store display or price reductions. Such deals typically take the form of a contract between the parties specifying what form of price reduction or free goods will be offered in return for what performance or action that the retailer expects to take. The timing and terms of mutual performance create frequent disputes between the parties with regard to the financial settlement. These disputes are commonly referred to as "deductions" and frequently lead to unilateral decisions by one or the other to withhold partial payment or demand extra funds. Deductions underlie a significant degree of cost and effort expended to resolve the settlement to both parties' satisfaction.

Manufacturer selects items for price reduction support by class of trade and coordinates a calendar of events which can be supported by available manufacturing capacity. Manufacturer also negotiates a contract with the retailer for reduced prices or a rebate given specified retailer performance. The retailer plans promotion events to achieve the required performance. He also communicates information on promotion activities throughout necessary internal functions. He purchases desired merchandise quantities based upon agreed-to price reduction. He summarizes necessary information on promotional support activities and invoices manufacturer or deducts the price discount from checks paid by retailer.

The manufacturer reviews retailer purchase history and retailer contractual performance measures and prepares check to retailer in accordance with internal/retailer supplied information. Manufacturer engages retailer finance/accounting personnel in resolving deductions as

required. Retailer receives payment from manufacturer and has finance/accounting personnel resolve deductions as required.

(Column 11, lines 21 to 60) While Jones mentions the contract between the manufacturer and retailer for a trade promotion, Jones does not expressly or implicitly mention capturing the terms of the contract such as promoted product identification and payment term information between the manufacturer and retailer for the trade promotion, storing such captured terms in the electronic audit system, or the electronic audit system using such stored terms of the contract between the manufacturer and the retailer to calculate the amount of money the manufacturer owes to the retailer for the trade promotion.

Second, Jones only states that the audit system can be applied to trade promotion in the following manner:

The electronic audit of the trade promotion process, according to the present invention, utilizes the passive collection of actual POST data by item and by transaction to establish a database of performance. By tying the contract to performance, the electronic audit simplifies settlement and provides a clear record to both parties regarding the results of the event.

As before, the manufacturer selects items for price reduction support by class of trade and coordinates a calendar of events which can be supported by available manufacturing capacity. Manufacturers contract to reimburse retailers relative to the sales performance of the selected items (e.g., incremental sales volume relative to a benchmark such as unsupported normal volume or established trend line of sales volume for that retailer/retail chain). The retailer plans promotional events to achieve the desired performance and purchases the desired merchandise quantities based upon the agreed-to price reduction.

The system and method of the present invention electronically audits and tracks the results of the retailer's efforts while monitoring and recording all POS transactions

as described earlier. Each transaction record is preferably retained in a history file for a predetermined period of time, perhaps 52 weeks to empirically determine what is the established (normal) sales volume for a particular product for a specified retailer, and independently documents any incremental sales volume increases to support the trade promotion settlement process. Predetermined and customized reports of these incremental sales volume increases, definitively documenting promotional performance on behalf of the retailer, is preferably sent to both the retailer and the manufacturer after each event to support the settlement process. As before, the retailer summarizes the necessary information on promotional support activities, including the report documentation if desired, invoices the manufacturer, and deducts the price discount from checks paid by the retailer to the manufacturer.

Thus, by crafting the promotional contract around performance goals evidenced by incremental sales volume increases and having recourse to a valid third party audit of the performance achieved, both retailer and manufacturer have a clear and current factual record to use in resolving payment disputes. An audit according to the present invention materially reduces the current cost for both retailers and manufacturers to track, collate, and transmit data on performance. As a result, more prompt and accurate settlements between the parties materially reduce the cost of resolving the disputes fostered by the current process. [Emphasis Added]

(See column 11, lines 21-67 and column 12, lines 1-40). Jones does not provide any further disclosure of how the electronic audit system would work with respect to trade promotions.

As emphasized above, Jones specifically states that predetermined and customized reports of incremental sales volume increases, definitively documenting promotional performance on behalf of the retailer, is sent to both the retailer and manufacturer after each event to support the settlement process. This statement clearly indicates that data on the promoted product increase in sales volume are provided to the manufacturer and the retailer. This description in Jones does not expressly state or

imply that the electronic audit system makes any calculations of what the manufacturer owes the retailer. Moreover, Jones does not expressly or implicitly provide that the electronic audit system would use the data on the promoted product and the captured and/or stored terms of the contract between the manufacturer and retailer to determine the amount of money the manufacturer owes the retailer for the trade promotion.

During the interview, the Examiner took the position that this function is inherent in Jones or an obvious modification of Jones. It is respectfully submitted that these elements are not inherent in Jones or an obvious modification of Jones. In setting forth a rejection based on inherency, an examiner must provide rationale or evidence tending to show inherency. See generally MPEP Section 2112. The law is well-settled that it is not sufficient for an examiner to merely allege, without support, the existence of inherency. An examiner must provide an exact citation which explains the basis of the inherency rejection. In *In re Yates*, 663 F.2d 1054, at 1057, 211 USPQ 1149, at 1151 (CCPA 1981) the court stated that “when the PTO asserts that there is an explicit or implicit teaching or suggestion in the prior art, it must indicate where such a teaching or suggestion appears in the reference.” It is respectfully submitted that the Examiner has not done this. Rather, the Examiner has merely generally cited columns 11 and 12 of Jones as support for the rejection. The relevant portions of columns 11 and 12 of Jones are set forth above in their entirety and do not support the Examiner’s inherency or obviousness position.

Moreover, before a reference can be found to disclose a feature by virtue of its inherency, one of ordinary skill in the art viewing the reference must understand that the unmentioned feature (i.e., the inherent feature) at issue is necessarily present in the

reference. *Continental Can Co. USA v. Monsanto Co.*, 20 USPQ2d 1746, at 1749 (Fed. Cir. 1991). It is respectfully submitted that that the Examiner has not explained how or why one of ordinary skill in the art viewing Jones must understand that these unmentioned features are necessarily present in Jones.

During the interview, the Examiner reasoned that for the electronic audit system of Jones to provide the report of incremental sales of promoted products to the manufacturer and the retailer, the electronic audit system of Jones would have to store the terms of the contract between the manufacturer and retailer in the audit system. It is respectfully submitted that this feature is not at all and certainly not necessarily present in Jones. Nowhere does Jones state this. Rather, Jones states all POS transactions are monitored and recorded. To provide the reports to the manufacturer and retailer, the electronic audit system of Jones only needs to use an identification of the product. This can be done in numerous ways. For instance, the electronic audit system could have all of the sales data of all of the products purchased at the retailer stored in the database of the electronic audit system of Jones and could conduct a sorting routine by a UPC code or other relevant product information which is inputted by an operator of the electronic audit system to sort or filter the data to obtain promoted product data. The contract terms do not have to be stored in the electronic audit system and are not necessarily stored in the audit system. The fact that a certain result or characteristic may occur or be present in the prior art is not sufficient to establish the inherency of that result or characteristic. *In re Rijckaert*, 9 F.3d 1531, at 1534, 28 USPQ2d 1955, at 1957 (Fed. Cir. 1993).

Since the Jones patent does not expressly or implicitly state that the audit system of the Jones patent will calculate the amount of money the manufacturer owes to the retailer or facilitate the payment of such sums from the manufacturer to the retailer, the Examiner is clearly using the teachings of the present application to reach this conclusion. However, it is well established that a patent examiner cannot use an applicant's patent application as a blueprint to reconstruct the invention from the prior art. *Interconnect Planning Corp. v. Feil*, 774 F2d 1132, 227 USPQ 543 (Fed. Cir. 1985). Put another way, "it is impermissible to engage in hindsight reconstruction of the claimed invention, using the applicant's patent application as a template and selecting elements from the references to fill the gaps." *In re Gorman*, 18 USPQ2d 1885, 933 F.2d 982 (Fed. Cir. 1991). It is thus respectfully submitted that the Examiner is improperly using hindsight to conclude that it is inherent in Jones that the Jones electronic audit system would calculate the amount of money the manufacturer owes to the retailer for the trade promotion based upon stored terms of the trade promotion in the electronic audit system.

Moreover, in trade promotions, the settlement is based on the contract which includes payment term information. This payment term information can vary from contract to contract as described in the specification of the present application. In one contract, the payment term can be the exact discount provided by the retailer to the consumer for the promoted product. For example, the manufacturer can provide 75¢ to the retailer for each promoted product sold by the retailer with a 75¢ discount passed on to the consumer. In another contract, the payment term can include a higher price per promoted product paid by the manufacturer and passed on to the consumer. For

instance, the manufacturer may pay the retailer a \$1.00 per promoted product sold by the retailer while the retailer passes on a 75¢ discount on the promoted product to the consumer. In another contract, the manufacturer can pay the retailer for each promoted product sold, but the retailer does not pass on any discount to the consumer. For example, the manufacturer could pay the retailer 50¢ per promoted product for the retailers conducting a promotion of the promoted product (and thereby increasing volume of the promoted product sold which increases the manufacturer's revenues). In another contract, the manufacturer may pay the retailer a lump sum for promoting a product. For example, the manufacturer may pay the retailer for instance \$5,000 for conducting a product promotion regardless of the number of products sold during the promotion. In such case, the number of products actually sold during the promotion does not determine the amount of money the manufacturer owes to the retailer for conducting the promotion.

While Jones states that manufacturer negotiates a contract with the retailer for the reduced prices or a rebate given to the satisfied retailer for performance, Jones does not expressly or implicitly state and it is not inherent in Jones that the terms of the contract including payment term information are captured or stored in the electronic audit system of Jones for use by the electronic audit system to calculate the amount of money that the manufacturer owes to the retailer for the product promotion. Accordingly, it is respectfully submitted that the Examiner is improperly using hindsight to conclude that the elements of the claims are present in Jones.

The Jones system also fails to solve the problem which the present invention solves. In particular, the manufacturers and retailers do not trust or have faith in each

other in calculating deductions or in handling payments. The Jones system merely provides data to the manufacturer and retailer who then need to make the appropriate calculations. The present invention provides an independent system operator system which calculates the amount of money the manufacturer owes to the retailer for each trade promotion based on the agreed upon contractual terms of the trade promotion. This provides the manufacturer and retailer with an effective, reliable and trustworthy system operated by a third party for determining the amount of money the manufacturer owes the retailer for each trade promotion.

Accordingly, it is respectfully submitted for at least the above reasons that Claims 1 to 94 are patentably distinguished over the prior art and that the rejection of Claims 1 through 94 should be withdrawn. Additionally, as discussed during the interview, applicant has made clarifying amendments to certain of the pending claims.

Independent Claims 1, 23, 30, 33, 37, 47, 68, 74, 88, 89 and 90 have been amended to clarify that the captured or stored terms of the trade promotion includes the payment term information, and that the payment term information stored in the independent system operator database is used to determine the amount of money the manufacturer owes the retailer. Such amendment has been made to clarify the limitations present in the claims. The references of record including Jones do not disclose, teach or suggest capturing or storing the contractual terms of the trade promotion including payment term information and using such payment term information to determine the amount of money the manufacturer owes the retailer for the trade promotion. Therefore, for at least this reason, it is respectfully submitted that independent Claims 1, 23, 30, 33, 37, 47, 68, 74, 88, 89 and 90 are patentably

distinguished over Jones and the other references of record and are in condition for allowance.

Independent Claims 1, 23, 30, 33, 37, 47, 68, 74, 88, 89 and 90 have also been amended to clarify that the captured or stored terms of the trade promotion include the promoted product identification. Such amendment has been made to clarify the limitations present in the claims. The references of record including Jones does not disclose, teach or suggest capturing or storing the contractual terms of the trade promotion including promoted product identification and using such promoted product identification to filter the product POS data to obtain the promoted product POS data. Therefore, for at least this reason, it is respectfully submitted that independent Claims 1, 23, 30, 33, 37, 47, 68, 74, 88, 89 and 90 are patentably distinguished over Jones and other references of record and are in condition for allowance.

Independent Claims 1, 23, 30, 37, 47, 68, 74, 77, 88, 89 and 90 have been amended to clarify that the product POS data or the promoted product POS data is received from the retailer. Such amendment has been made to clarify the limitations present in the claims and to address the issue raised by the Examiner during the personal interview regarding from where the independent system operator obtains this data. It is respectfully submitted that independent Claims 1, 23, 30, 37, 47, 68, 74, 77, 88, 89 and 90 are patentably distinguished over Jones and the other references of record and are in condition for allowance.

Independent Claim 84 has not been amended. Independent Claim 84 is directed to a method for enabling a retailer and a manufacturer involved in a plurality of trade promotions of a plurality of promoted products to independently verify terms of the trade

promotions for the promoted products using an independent system. The method includes the steps of capturing the terms of the trade promotion for the promoted products in an independent system which operates independently of the control of the retailer and the manufacturer. The captured terms include retailer identification, manufacturer identification, trade promotion type, UPC codes for the promoted products, payment values for the promoted products and link codes for associated discounts if any of the trade promotions are electronic discount trade promotions. The method further includes storing the captured terms of the trade promotions in an independent system database and enabling the retailer and the manufacturer to access the independent system database to determine the stored terms of the trade promotions. Jones and the other references of record do not disclose (expressly or inherently), teach or suggest a method wherein such terms of trade promotions are captured and stored in an independent system database, wherein the retailer and the manufacturer can access the independent system database to determine the stored terms of the trade promotion. Accordingly, it is respectfully submitted that independent Claim 84 is patentably distinguished over Jones and the other references of record and is in condition for allowance.

It is also respectfully submitted that Jones and the other references of record do not disclose (expressly or inherently), teach or suggest the additional limitations of the dependent claims which directly or indirectly depend from and include all of the respective limitations of independent Claims 1, 23, 30, 37, 47, 68, 74, 77, 84, 88 and 90. For example, Jones does not disclose (expressly or inherently), teach or suggest:

- (a) the independent system operator enabling the retailer and the manufacturer to access the terms of the trade promotions stored in the independent system operator database to independently verify the terms of the trade promotion (see Claims 2 and 48);
- (b) enabling the retailer to change the terms of the trade promotion prior to the start of the trade promotion, capturing the changed terms of the trade promotion and storing the captured changed terms of the trade promotion in the independent system operator database (see Claims 3 and 49);
- (c) the independent system operator enabling the retailer and the manufacturer to access the stored terms of the trade promotion in the independent system operator database and to determine if the retailer has changed any terms of the trade promotion (see Claims 4 and 50);
- (d) the independent system operator enabling the retailer and the manufacturer to access processed promoted product POS data to determine the number of promoted products sold during the trade promotion (see Claims 5 and 51);
- (e) the independent system operator enabling the retailer and the manufacturer to access the processed promoted product POS data to determine the amount of money the manufacturer owes to the retailer for the trade promotions (see Claims 6 and 52);
- (f) providing the retailer and manufacturer access to the independent terms through the internet to determine the number of promoted products sold during the trade promotion and the amount of money the manufacturer owes to the retailer for the trade promotion (see Claims 7 and 53);

- (g) creating at least one settlement table in the independent system operator database which includes a number of promoted products sold by the retailer during the trade promotion, discounts given to consumers on the promoted products during the trade promotion and the amount of money the manufacturer owes to the retailer for the trade promotion (see Claims 17, 38 and 62);
- (h) the independent system operator sending an invoice to the manufacturer for payment collecting the money the manufacturer owes the retailer and paying the retailer the amount of money owed to the retailer (see Claim 19); or
- (i) the independent system operator sending notices to the retailer and the manufacturer of the amount of money owed by the manufacturer to the retailer, the retailer deducting the amount of money from a manufacturer invoice and identifying the manufacturer invoice number and the deduction to the manufacturer (see Claims 20 and 65).

It is respectfully submitted that dependent Claims 2 to 22, 24 to 29, 31 to 36, 38 to 46, 48 to 67, 69 to 73, 75, 76, 79 to 83, 85 to 87 and 91 to 93 are also patentably distinguished over Jones in the other references of record and are in condition for allowance.

An earnest endeavor has been made to place this application in condition for formal allowance and such as is courteously solicited. If the Examiner has any questions regarding this Response, applicant respectfully request that Examiner contact the applicant's attorney, Adam Masia at (312) 807-4284.

Respectfully submitted,

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VERSION WITH MARKINGS TO SHOW CHANGES MADE

In the Specification:

No changes have been made to the specification.

In the Claims:

Claim 1 as been amended as follows:

1. (Twice Amended) A method for an independent system operator to administer a trade promotion for a product involving a manufacturer and a retailer having at least one store with an in-store POS system, said method comprising the steps of the independent system operator:

capturing terms of the trade promotion at least including promoted product identification and payment term information for said trade promotion;

storing the captured terms of the trade promotion in an independent system operator database;

collecting from the retailer product POS data from at least one in-store POS system of the retailer;

filtering the product POS data using the promoted product identification stored in the independent system operator database to obtain promoted product POS data;

processing the promoted product POS data in accordance with the stored payment term information ~~terms~~ of the trade promotion in the independent system

operator database to determine an amount of money the manufacturer owes to the retailer for the trade promotion; and

facilitating the manufacturer's payment of the amount of money owed to the retailer for the trade promotion.

Claim 23 as been amended as follows:

23. (Twice Amended) A system for enabling an independent system operator to administer a trade promotion for a promoted product involving a manufacturer and a retailer having at least one store with an in-store POS system, said system comprising:

means for the independent system operator to capture the terms of the trade promotion for the promoted product at least including promoted product identification and payment term information for said trade promotion;

means for the independent system operator to collect from the retailer product POS data from at least one in-store POS system of the retailer;

means for the independent system operator to filter the product POS data using the promoted product identification to obtain promoted product POS data for the promoted product; ;

means for the independent system operator to determine the amount of money the manufacturer owes to the retailer based on the promoted product POS data and the captured payment term information terms of the trade promotion; and

means for the independent system operator to pay the retailer the amount of money determined by the independent system operator to be owed to the retailer by the manufacturer for the trade promotion.

Claim 30 as been amended as follows:

30. (Twice Amended) A method for an independent system operator to administer a plurality of trade promotions for products involving a manufacturer and a retailer having at least one store with an in-store POS system, said method comprising the steps of the independent system operator:

storing the terms of the trade promotions at least including promoted product identification and payment term information for said trade promotion in an independent system operator database;

providing the retailer and manufacturer access to the ~~first~~ independent system operator database to independently verify the terms of the trade promotions;

collecting from the retailer the product POS data during the trade promotions from at least one in-store POS system of the retailer;

filtering the product POS data based on the stored promoted product identification terms to obtain promoted product POS data;

storing the promoted product POS data in the independent system operator database;

determining an amount of money the manufacturer owes to the retailer based on the promoted product POS data and the payment term information terms of the trade promotion stored in the independent system operator database;

storing the amount of money the manufacturer owes the retailer in the independent system operator database;

providing the retailer and manufacturer access to the first independent system operator database during the productconduct of the trade promotion to determine the amount of money the manufacturer owes the retailer for the trade promotion; and

facilitating payment to the retailer of the amount of money determined to be owed to the retailer by the manufacturer.

Claim 33 as been amended as follows:

33. (Twice Amended) A method for enabling a retailer and a manufacturer involved in a plurality of trade promotions for a plurality of products to independently verify the terms of the trade promotions, said method comprising the steps of:

capturing the terms of the trade promotions at least including promoted product identification and payment term information in an independent system which operates independently from the retailer and the manufacturer;

storing the captured terms of the trade promotions in an electronic database of the independent system; and

enabling the retailer and the manufacturer to access the electronic database of the independent system to determine the stored terms of the trade promotions.

Claim 37 as been amended as follows:

37. (Twice Amended) A system for administering a trade promotion for a promoted product between a retailer and a manufacturer, said system comprising:

an independent system having a processor and an electronic database accessible by the processor which are adapted to capture and store the terms of the

trade promotion for the promoted product at least including promoted product identification and payment term information for said trade promotion, to collect from the retailer promoted product POS data for the promoted product of the trade promotion from the retailer, to process the collected promoted product POS data in accordance with the stored payment term information terms of the trade promotion in the electronic database to determine an amount of money the manufacturer owes to the retailer for the trade promotion, and to facilitate the manufacturer's payment of the amount of money determined to be owed to the retailer for the trade promotion;

a retailer system in communication with the independent system, having a processor adapted to collect promoted product POS data for the promoted product from a plurality of retailer stores, to consolidate the promoted product POS data, and to transfer the promoted product POS data for the trade promotion to the independent system; and

a manufacturer system in communication with the independent system.

Claim 47 as been amended as follows:

47. (Amended) A method for an independent system operator to administer a trade promotion for a promoted product involving a manufacturer and a retailer having at least one store with an in-store POS system, said method comprising the steps of the independent system operator:

capturing terms of the trade promotion for the promoted product at least including promoted product identification and payment term information for said trade promotion;

storing the captured terms of the trade promotion in an independent system operator database;

receiving from the retailer promoted product POS data for the promoted product of the trade promotion from at least one in-store POS system of the retailer;

processing the promoted product POS data in accordance with the stored ~~terms payment term information~~ of the trade promotion in the independent system operator database to determine an amount of money the manufacturer owes to the retailer for the trade promotion; and

facilitating the manufacturer's payment of the amount of money owed to the retailer for the trade promotion.

Claim 68 as been amended as follows:

68. (Amended) A system for enabling an independent system operator to administer a trade promotion for a promoted product involving a manufacturer and a retailer having at least one store with an in-store POS system, said system comprising:

means for the independent system operator to capture terms of the trade promotion for the promoted product at least including promoted product identification and payment term information for said trade promotion;

means for the independent system operator to collect from the retailer promoted product POS data for the promoted product from at least one in-store POS system of the retailer;

means for the independent system operator to determine the amount of money the manufacturer owes to the retailer based on the promoted product POS data and the terms payment term information of the trade promotion; and

means for the independent system operator to pay the retailer the amount of money determined by the independent system operator to be owed to the retailer by the manufacturer for the trade promotion.

Claim 74 as been amended as follows:

74. (Amended) A method for an independent system operator to administer a plurality of trade promotions for products involving a manufacturer and a retailer having at least one store with an in-store POS system, said method comprising the steps of the independent system operator:

storing the terms of the trade promotions at least including promoted product identification and payment term information for said trade promotion in an independent system operator database;

providing the retailer and manufacturer access to the independent system operator database to independently verify the terms of the trade promotions;

receiving from the retailer promoted product POS data during the trade promotions from at least one in-store POS system of the retailer;

storing the promoted product POS data in the independent system operator database;

determining an amount of money the manufacturer owes to the retailer based on the promoted product POS data and the ~~terms~~ payment term information of the trade promotion;

storing the amount of money the manufacturer owes the retailer in the independent system operator database;

providing the retailer and manufacturer access to the independent system operator database during the ~~product~~ conduct of the trade promotion to determine the amount of money the manufacturer owes the retailer for the trade promotion; and

facilitating payment to the retailer of the amount of money determined to be owed to the retailer by the manufacturer.

Claim 77 as been amended as follows:

77. (Amended) A method for independent system operator to administer a trade promotion for a product involving a manufacturer and a retailer having at least one store with an in-store POS system, said method comprising the steps the independent system operator:

capturing terms of the trade promotion including an identification of the retailer, an identification of the manufacturer, a trade promotion type, a UPC Code for the promoted product, a payment value for the promoted product, and link codes for associated discounts if the trade promotion is an electronic discount trade promotion;

storing said captured terms of the trade promotion in an independent system operator database;

receiving from the retailer promoted product POS data for said trade promotion from at least one in-store POS system of the retailer;

processing the promoted product POS data in accordance with the terms payment value for the promoted product of the trade promotion stored in the independent system operator database to determine an amount of money the manufacturer owes to the retailer for the trade promotion; and

facilitating the manufacturer's payment of the amount of money owed to the retailer for the trade promotion.

Claim 88 as been amended as follows:

88. (Amended) A method for an independent system operator to administer a plurality of trade promotions for a plurality of promoted products involving a plurality of manufacturers and a retailer having a plurality of stores with in-store POS systems, said method comprising the steps of the independent system operator:

capturing terms of each of the trade promotions for each of the promoted products at least including promoted product identifications and payment term information for said trade promotions;

storing the captured terms of each of the trade promotions in at least one independent system database;

receiving from the retailer consolidated promoted product POS data including promoted product POS data for each of the promoted products from each of the in-store POS systems of the retailer;

processing the promoted product POS data the promoted products in accordance with the stored ~~terms~~ payment term information of the trade promotions in the independent system database for said promoted products to determine amounts of money the manufacturers owe to the retailer for the trade promotions; and

facilitating the manufacturers' payments of the amounts of money owed to the retailer for the trade promotions.

Claim 89 as been amended as follows:

89. (Amended) A method for an independent system operator to administer a plurality of trade promotions for a plurality of promoted products involving a plurality of manufacturers and a plurality of retailers where each retailer has a plurality of stores with in-store POS systems, said method comprising the steps of the independent system operator:

capturing terms of each of the trade promotions for each of the promoted products at least including promoted product identifications and payment term information for said trade promotions;

storing the terms of each of the trade promotions in at least one independent system database;

receiving from the retailer consolidated promoted product POS data for each of the promoted products from each of the in-store POS systems of the retailers;

processing the promoted product POS data for each of the promoted products in accordance with the stored ~~terms~~ payment term information of the trade promotions in

the independent system database for said promoted products to determine amounts of money the manufacturers owe to the retailers for the trade promotions; and

facilitating the manufacturers' payments of the amounts of money owed to the retailers for the trade promotions.

Claim 90 as been amended as follows:

90. (Amended) A method for an independent system operator to administer a trade promotion for a promoted product involving a manufacturer and a retailer having at least one store with an in-store POS system, said method comprising the steps of the independent system operator:

capturing terms of the trade promotion for the promoted product at least including promoted product identification and payment term information for said trade promotion;

storing the captured terms of the trade promotion in an independent system operator database;

enabling the retailer and the manufacturer to access the terms of the trade promotion stored in the independent system operator database to independently verify the terms of the trade promotion;

enabling the retailer to change at least one of the stored terms of the promotion prior to the start of the trade promotion, capturing any changed terms of the trade promotion and storing any changed terms of the trade promotion in the independent system operator database;

enabling the retailer and the manufacturer to access the stored terms of the trade promotion stored in the independent system operator database to independently verify

the terms of the trade promotion and to determine if the retailer changed the terms of the trade promotion;

receiving from the retailer promoted product POS data for the promoted product of the trade promotion from at least one in-store POS system of the retailer;

processing the promoted product POS data in accordance with the stored terms payment term information of the trade promotion in the independent system operator database to determine an amount of money the manufacturer owes to the retailer for the trade promotion;

verifying that the promoted product POS data is within acceptable tolerances;

enabling the retailer and the manufacturer to access the processed promoted product POS data to determine the amount of money the manufacturer owes to the retailer for the trade promotion; and

facilitating the manufacturer's payment of the amount of money owed to the retailer for the trade promotion.